

HALEY WEINBLATT & CALCAGNI, LLP
1601 Veterans Memorial Highway, Suite 425
Islandia, New York 11749
631-582-5151

February 11, 2015

United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Attn: AUSA Catherine M. Mirabile

RE: United States v. Philip Kenner & Tommy C. Constantine
Docket Number: 13-CR-607 (JFB)

Dear Ms. Mirabile:

In reply to your letter of February 10, 2015, I am pleased to report that I am able to access the files contained on the substitute three CD's, Bates stamped PRIV-PK000002, PRIV-PK000003 and PRIV-PK 000004, which are not password protected. It appears that encrypting the files and/or making them password protected inhibits, at times, access through my computer program and the computer program utilized by Mr. Martinez of the Queens Private Correctional Facility (See my letter of December 2, 2014). Accordingly, I am forwarding the three substitute CD's to my client who receives them after Mr. Martinez confirms that the information contained on the disks is related to the pending criminal case.

As discussed on February 6, 2014 during the course of our telephone conversation, I was unaware that you did not receive ECF filings in this case. I assumed that your letter of November 25, 2014, which was filed on ECF and mailed via Fed, could be answered through ECF and, thus, did not follow through with a mailing. In any event, we have now resolved the breakdown in communication.

This letter is being sent to you as an attachment to my response to your e-mail at catherine.m.mirabile@usdoj.gov. It is my practice, however, to file all communications with the government regarding a pending criminal case proceeding to trial on ECF for purposes of pre-trial motion practice, in addition to ensuring that the electronic index of the case as maintained by the district court clerk is complete.

Very truly yours,

Richard D. Haley

RICHARD D. HALEY

cc: AUSA Catherine M. Mirabile via e-mail

